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February 22, 2022

VIA CM/ECF

Hon. P. Kevin Castel  
U.S. District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: *Red Tree Investments, LLC v. Petróleos de Venezuela, S.A. et al.*,  
Nos. 19 Civ. 2519 and 19 Civ. 2523

Dear Judge Castel:

We represent Red Tree. We write to respectfully request leave to amend Red Tree's pending motions for attorney fees and costs. There is no conference currently scheduled in this matter.

Red Tree requests leave to amend its fees and costs motions in two ways. First, since Red Tree filed its original motions, it received a detailed invoice from GE Capital EFS Financing, Inc. ("GE") seeking reimbursement for fees and costs GE incurred in responding to discovery requests from Defendants in this case. GE has sought reimbursement from Red Tree under the assignment agreement under which GE transferred the debts at issue here to Red Tree in 2019. Under that agreement, Red Tree must indemnify GE for all costs and expenses arising from "execution, enforcement, or collection actions" under the three contracts, "including in connection with any litigation . . . involving" Red Tree. Dkt. 3-1 at 231/Dkt. 1-1 at 148.<sup>1</sup> The total amount of reimbursement GE has sought from Red Tree is \$50,475.25.<sup>2</sup>

Red Tree is entitled to recover that amount from Defendants. As Red Tree's fees and costs motions describe, Defendants promised to pay "all out-of-pocket expenses incurred . . . in connection with the enforcement or protection of" Red Tree's "rights in connection with" the contracts, including "the fees, charges and disbursements of any counsel." Dkt. 149/150 at 6. GE's expenses at issue are directly related to both Red Tree's enforcement and protection of its rights. GE incurred those expenses only because Defendants sought discovery from GE in their effort to escape enforcement of the debt contracts. And Red Tree's right to reimbursement for its fees and expenses did not end when this Court entered judgment, because Defendants' promise to

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<sup>1</sup> As with prior Red Tree filings, this letter cites docket numbers from the two cases as "Dkt. #/#."

<sup>2</sup> Red Tree will produce the GE invoice to Defendants on February 23 together with the other invoices this Court has directed it to produce.

Hon. P. Kevin Castel

February 22, 2022

Page 2

pay those fees and costs does not distinguish between whether they were incurred before or after judgment was entered.<sup>3</sup>

Second, Red Tree has re-reviewed its time entries in connection with its upcoming production of invoices to Defendants and, as a result, intends to withdraw certain entries. The total amount of the fees Red Tree seeks to withdraw is \$3,920.00. A revised copy of Exhibit J to the Weisser Declaration, which details the total fees and expenses Red Tree claims, *see* Dkt. 150-10/151-10, is attached to this letter as Exhibit A.

These minor amendments are appropriate and would not prejudice Defendants. Red Tree is entitled to seek its fees and costs incurred after the date of its original motions, and it would be most efficient for the parties and the Court to consider these small additional charges as part of Red Tree's original motions rather than require Red Tree to file separate motions. The additional fees and costs Red Tree seeks – slightly over \$46,000 – represent slightly more than one percent of the \$3.2 million of fees and costs requested in Red Tree's original petition. *See* Dkt. 149/150 at 13. And because Defendants are not required to respond to Red Tree's fees and costs motion until March 16, *see* Dkt. 155/156, they will have ample time to respond to Red Tree's revised fees and costs motion on the current schedule.

Red Tree thus respectfully requests leave to amend its motions for attorney fees to include an additional \$46,555.25 to reflect the GE invoice and its withdrawn time entries. Red Tree does not request leave to amend its memorandum of law or other papers in support of its fees and costs motion and believes that any extension of the current briefing schedule is unnecessary.

Respectfully submitted,

/s/ Steven F. Molo  
Steven F. Molo

CC: All counsel of record via CM/ECF

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<sup>3</sup> Since Red Tree filed its motions, Defendants have taken steps that will require Red Tree to spend additional fees and costs in enforcing their rights under these contracts. Defendants have filed two notices of appeal from the Court's judgments and from the Court's order denying their motion for a stay of enforcement. Dkts. 156/157, 164/165. Defendants have also informed Red Tree that they intend to oppose Red Tree's pending motions in the District of Delaware to enforce its judgments. Red Tree reserves its rights to seek reimbursement of its additional fees and costs incurred in enforcing its judgments and in defending them on appeal.